

Town of Millis

Public Records Compliance Policy

POLICY STATEMENT:

It is the policy of the Town of Millis, Massachusetts, to conform and comply with all laws and regulations regarding public records. Applicable laws and regulations include, but are not limited to, MGL Chapters 7 and 66 as amended by Chapter 121 of the Acts of 2016 and 950 CMR 32 as enacted by the Office of the Secretary of the Commonwealth.

INTRODUCTION:

On June 3, 2016, Governor Baker signed into law a major revision of the Public Records Law, which took effect on January 1, 2017. The Secretary of the Commonwealth issued final revisions of 950 CMR Section 32.00 et seq. on December 16, 2016.

The new law and proposed regulations make several important changes to how municipalities respond to public records requests. In brief, cities and town now must (1) create and appoint a new municipal position or positions: Records Access Officer; (2) respond to public records requests within 10 (ten) business days; and (3) post on their websites public records guidelines and identify and provide contact information for all Records Access Officers.

By adopting this document, the Town of Millis sets out its policy and procedures for receiving, processing, and responding to public records requests and complies with the new law and regulations.

RECORDS ACCESS OFFICERS:

Each city, town, and district must create and maintain a new position or positions: Records Access Officer (RAO).

The new law states: "...Each agency and municipality shall designate 1 or more employees as records access officers. In a municipality, the municipal clerk, or the clerk's designees, or any designee of a municipality that the chief executive officer of the municipality may appoint, shall serve as records access officers...."

The new law states that the RAO "...shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record or any segregable portion of a public record, not later than 10 business days following the receipt of the request, provided that:

- (i) the request reasonably describes the public record sought;
- (ii) the public record is within the possession, custody or control of the agency or municipality that the records access officer serves; and
- (iii) the records access officer receives payment of a reasonable fee..."

The Town of Millis Board of Selectmen, acting collectively as the chief executive officer, adopts the attached Records Access Officer (RAO) organizational chart — Appendix A. Although the Town Clerk is designated as the "Super RAO", the Select Board has other Records Access Officers, each responsible for handling public records requests relating to a specific functional area of town government. In addition, the Board of Selectmen has designated the

Town Clerk as the Super RAO, responsible for setting policy concerning public records matters generally and for developing appropriate guidelines and procedures for responding to public records requests. The Super RAO will coordinate with the appointed RAOs and with custodians of public records to respond to requests for records.

If you are making a public records request in writing, by e-mail or facsimile or have questions concerning public records issues, please contact the appropriate RAO from Appendix A, which may be freely amended from time to time. In-person requests may also be made to one of the listed RAOs.

Requests for records may also be made "over the counter" at Town offices. Such requests may be made to and handled by the custodian of the requested records; provided, however, that if such a request will necessitate allocation of significant time or resources, the custodian of the requested records will inform the appropriate RAO who will provide such response as may be necessary or appropriate. Any person requesting public records may seek out and contact any Millis RAO for assistance in determining the appropriate RAO or custodian of records.

For purposes of this policy, the definitions found in the Public Records Law, MGL Chapter 4, Section 7, Clause 26 and MGL Chapter 66, Section 10 and the Public Records Access Regulations, 950 CMR 32.00 et seq., shall be applicable.

What happens when I request public documents under the new law?

1. Any person can make a request for public records by e-mail, by facsimile, or in writing to a Millis Records Access Officer using the contact information listed in Appendix A. Requests for copies of records or access thereto may still be made in person at the appropriate Town office.
2. A request may be made in person or by e-mail, first class mail, facsimile, or hand delivery.
 - Verbal requests for public records will be acknowledged and replied to, even though a requester may not appeal a verbal request to the Supervisor of Public Records.
 - A public records request form shall be available to anyone making a public records request, but neither that form, nor any other type of written request, shall be required. See Appendix B.
3. Any RAO receiving a public records request shall immediately notify the Super RAO in such time as shall be established from time to time by the Super RAO.
4. The RAO may contact the requester in order to clarify a request; provided, however, that a RAO may not ask the requester what they intend to use the requested records for, but shall seek to utilize the RAO's superior knowledge of the requested records to ensure that the requester and the RAO understand what is being requested and/or to assist the requester in narrowing or refining the request.

5. The RAO may assess a reasonable fee for the production of a public record, except those records that are freely available for public inspection (see 950 CMR 32.08); and pursuant to MGL Chapter 66, Section 10(a)(iii), the RAO may require the payment of the reasonable fee prior to production of the requested records.
 - Fees shall conform to the provisions of 950 CMR 32.08(2) or other applicable law, including that black and white copies and printouts shall be charged at \$0.05/page, whether one or two-sided, and the actual cost of a thumb drive or disk if the records are provided electronically other than by-mail.
 - The actual cost of producing a copy of a requested record shall be assessed for records not susceptible to ordinary means of reproduction.
 - With a population of less than 20,000, the Town of Millis may assess fees for employee time required in connection with search, segregation, or copying of requested records (see MGL Chapter 66, Section 10(d)(iii)(B)).
 - If the request for public records requires employee time for search, segregation, or copying, including employees or necessary vendors, such as legal counsel, technology and payroll consultants or others as needed, such time shall be assessed as a fee to the requester based upon the prorated hourly rate of the lowest paid employee in that office capable of doing the work. Provided further, however, that if the work needed to reply to request requires time for an employee compensated in excess of \$25/hour, the Town may petition the Massachusetts Supervisor of Records for permission to charge in excess of \$25/hour.
6. In general, subject to the exceptions set forth in MGL Chapter 66, Section 10(a), the RAO is required to respond within 10 business days of receipt of a public records request by providing access to or copies of the requested records, providing the requester with direction to access the requested records on the Town's website, or by notifying the requester in writing that all or a portion of the records will be withheld from disclosure and/or that the records will not be provided in that timeframe, addressing the other elements required by law as set forth in MGL Chapter 66, Section 10(b). For the purpose of the response:
 - Business days are Monday through Thursday 8:30 a.m. to 4:30 p.m., and Fridays 8:30 a.m. to 12:30 p.m., except for legal holidays and any day when Town Hall is closed for business due to emergency, weather, or other events requiring the unexpected closure of business.
 - Calculation of time shall begin with the first business day following the receipt of the public records request (see 950 CMR 32.03(3)).
 - Example #1: A request for public records is received by an RAO at 2:00 p.m. on a Wednesday. "Day 1" for purposes of the law will be Thursday.
 - Example #2: A public records request received on a Friday at 1:00 p.m.. "Day 1" for the purposes of the law will be Monday (or Tuesday, if Monday is a holiday).

- Example #3: An email requesting public records is received on Saturday. "Day 1" for the purposes of the law will be Monday (or Tuesday, if Monday is a holiday).
 - The Town may refuse to provide records to any person who has not paid a reasonable estimate for provision of public records or who has failed to pay such a fee in connection with a prior request for public records.
 - When the Town, within ten business days as provided by law, provides a good faith estimate of the cost to provide access to or copies of requested records, the number of business days for its response shall be stayed until the Town receives the fee. The Town shall, upon receipt of the fee, undertake the required work to comply with the requested in compliance with the applicable time frames set forth in the statute.
7. If the response to the request is anticipated to be time consuming, extensive, voluminous, or otherwise puts a burden on the Town or its departments, the RAO may request from the Massachusetts Supervisor of Records an extension of time to fulfill the request. The requester of the public records shall be notified in writing that an extension has been requested.

Record Access Officers shall meet on such dates and times, whether regularly or intermittently, as the Super RAO shall determine. Such meetings are strictly administrative in nature and do not constitute a meeting of a public body under the Open Meeting Law. Meetings among the RAOs may occur in person, by telephone, or by email.

The Town of Millis has custody of records as set forth in Municipal Records Retention Schedule, which can be found on the Secretary of the Commonwealth's website on the Archives Division Page at the following link:

[http://www.sec.state.ma.us/arc/arcpdf/Municipal Retention Schedule 20161109.pdf](http://www.sec.state.ma.us/arc/arcpdf/Municipal%20Retention%20Schedule%2020161109.pdf)

Additional information about the Public Records Law may be found on the Secretary of the Commonwealth Public Records Division's website at:

<http://www.sec.state.ma.us/pre/preidx.htm>

APPENDIX A

Records Access Officers for the Town of Millis

Municipal "Super" Records Access Officer (SRAO)

Lisa Hardin-Town Clerk

Alternate —

Municipal Deputy "Super" Records Access Officer (RAO)

Michael Guzinski-Town Administrator

Departmental Records Access Officers (RAO's)

Department	Primary RAO	E-mail	Alternate RAO	E-mail
Town Clerk				
Board of Registrars				
Board of Selectmen/TA*				
Finance Department				
Inspection Department				
Comm. Development				
Board of Health				
Cable Commission				
Police Department				
Fire/Ambulance Dept.				
DPW				
Animal Control				
Council on Aging				
Library				
Schools				
Recreation Committee				
Cemetery Commission				

*The Board of Selectmen's Office shall also be the RAO for the Capital Improvement Committee, and all Ad-hoc Committees established by the Board of Selectmen.

APPENDIX B

TOWN OF MILLIS PUBLIC RECORDS REQUEST FORM

The Town of Millis provides this form to assist the public in making a request for public documents or records. Use of this form is optional, and it is offered only as a convenience to the public. Any request for public records, whether verbal, written on this form, or written in some other format, will be acknowledged and replied to as per law.

Date of the request: _____

Contract Information: _____

Address: _____

Telephone: _____

Email: _____

Description of the documents or records requested. Please be as specific as possible. Use additional sheets, if needed. If you are unsure of what records may exist, please call the Town Clerk's Office at 508-376-7046.

For office use only.

Date received: _____

Date responded: _____

RAO: _____

Describe response: _____
